

Message Text

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ACTION NEA-10

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FM AMEMBASSY KUWAIT

TO SECSTATE WASHDC 4697

INFO AMEMBASSY ABU DHABI

AMEMBASSY AMMAN

AMEMBASSY CAIRO

AMEMBASSY DAMASCUS

AMCONSUL DHAHRAN

AMEMBASSY DOHA

AMEMBASSY JIDDA

AMEMBASSY MANAMA

AMEMBASSY MUSCAT

USINT BAGHDAD

C O N F I D E N T I A L KUWAIT 0746

E.O. 11652: GDS

TAGS: ETRD, EFIN, PFOR, KU, XF, US

SUBJ: US COMPANIES' REACTION TO RECENT BOYCOTT DEVELOPMENTS

REF: MUSCAT 89 (NOTAL)

1. WE NOTE THAT AS HAD BEEN CASE HERE EMBOFFS IN OTHER POSTS
HAVE WITNESSED GENERAL MOOD OF CONFUSION AMONG AMERICAN AND
LOCAL BUSINESSMEN IN LIGHT OF USDOC ANNOUNCEMENTS, NEW YORK
BANKING LAW, BECHTEL CASE AND OTHER RECENT ANTI-ARAB BOYCOTT
DEVELOPMENTS IN US. WE HAVE LEARNED OF SEVERAL REACTIONS
AMONG US FIRMS WHICH MAY BE OF INTEREST TO OTHER POSTS (REFTEL).

2. WITH RESPECT TO NEW YORK BANKING LAW, CONVERSATIONS WITH
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OFFICIALS OF MORGAN, IRVING, CHASE, FNCB AND MANUFACTURERS-

HANOVER, REVEAL THAT VIRTUALLY ALL MAJOR NEW YORK BANKS INTERPRET AT LEAST KUWAITI LETTER OF CREDIT INFO AS NOT FALLING WITHIN ANTI-DISCRIMINATORY PROVISIONS WHICH NEW YORK LAW DEFINES AS OFFENSIVE. AT SAME TIME, EVEN THESE BANKS ARE NOT FULLY CERTAIN THAT THEIR INTERPRETATION IS CORRECT. IT ALSO TRUE THAT SOME SMALLER FINANCIAL INSTITUTIONS AND SOME NON-BANKS (E.G. FREIGHT FORWARDERS) HAVE DECIDED NOT TO RISK BREAKING LAW AND HAVE DECIDED NOT TO DO BUSINESS WITH KUWAITIS.

3. WE WERE TOLD BY REP OF NEW JERSEY BASED MANUFACTURING COMPANY THAT IN-HOUSE LAWYERS ADVISED COMPANY MANAGEMENT NOT TO RISK BREAKING LAW AND THEREFORE ADVISED THAT COMPANY SHOULD NOT BID ON KUWAITI POWER PROJECT-RELATED EQUIPMENT TENDER. COMPANY SALESMEN, HOWEVER, ARGUED OTHERWISE AND CONVINCED COMPANY THAT IT SHOULD MAKE A BID AS LONG AS IT CLEARLY WOULD NOT BE ILLEGAL TO DO SO.

4. IN ANOTHER CASE A MAJOR AMERICAN MANUFACTURING COMPANY HAS DETERMINED THAT IT WOULD NOT BE ILLEGAL TO HAVE ITS SUBSIDIARY BID ON KUWAIT PLANNING BOARD TENDER, BUT AS A MATTER OF POLICY IT WILL NOT IN WRITING RESPOND TO BOYCOTT QUESTIONS. HOWEVER, SUBSIDIARY WILL STILL PARTICIPATE IN SUBMITTING PROPOSAL, EXCEPT THAT ANOTHER US FIRM WILL ACT AS THE LEAD INSTEAD OF THE MAJOR US FIRM'S SUBSIDIARY, AS HAD ORIGINALLY BEEN INTENDED.

5. WE HAVE HAD OPPORTUNITY TO SEE LEGAL ADVICE PROVIDED TO A KUWAITI COMPANY BY ITS US LAWYER REGARDING ACTIVITIES IN US BY KUWAIT COMPANY'S SUBSIDIARY. US LAWYER HAS ADVISED THAT HE BELIEVES STANDARD KUWAITI BOYCOTT TERMINOLOGY DOES NOT RPT NOT VIOLATE US ANTI-DISCRIMINATION LAWS. HOWEVER, KUWAIT COMPANY WILL HAVE TO REPORT REQUEST FOR BOYCOTT INFO TO DEPARTMENT OF COMMERCE. THIS SEEMS TO REPRESENT CONSENSUS OF US BANKS, COMPANIES AND LAWYERS WHO HAVE CLOSELY CONSIDERED KUWAITI BOYCOTT PROVISIONS WITH RESPECT TO US LAWS.

6. COMMENT: WE TEND TO AGREE WITH ANALYSIS OF KUWAIT FIRM'S US LAWYER. ALTHOUGH SOME FIRMS OBVIOUSLY ARE CONFIDENTIAL

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INTIMIDATED FROM DOING BUSINESS WITH KUWAIT IN LIGHT ANTI-BOYCOTT CAMPAIGN, MOST LARGE BANKS AND COMPANIES APPEAR INTERESTED IN CONTINUING TO SEEK BUSINESS HERE. THIS SUGGESTS THAT LEVEL OF US EXPORTS TO KUWAIT SHOULD BE MAINTAINED. HOWEVER, IF USG WINS SUIT AGAINST BECHTEL AND/OR IF STEVENSON-WILLIAMS BILL OR SIMILAR LEGISLATION IS PASSED, IT SEEMS UNLIKELY THAT PRESENT LEVEL OF EXPORTS CAN BE MAINTAINED. MOREOVER, AS NOTED IN EARLIER REPORTING,

KUWAITIS ARE SOMEWHAT HESITANT TO GET INTO WHAT MAY
BE LONG NEGOTIATIONS IF IN NEAR FUTURE US EFFECTIVELY
DISALLOWS DOING BUSINESS WITH ARAB STATES THAT IMPLEMENT
BOYCOTT.
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